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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/350,393 07/09/99 WU

R 19603/2760 (C)

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EXAMINER

BENZION, G

ART UNIT

PAPER NUMBER

1638

4

DATE MAILED:

10/30/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/350393

Applicant(s)

Examiner

Group Art Unit

1638

☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-27 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-27 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### DETAILED ACTION

Claims 4 and 22 are generic to a plurality of disclosed patentably distinct species comprising a method for transformation and a transformed plant involving the incorporation of a DNA molecule that increases tolerance to salt stress and drought stress wherein the molecule is: 1) P5CS; 2) P5CS-129A; 3) Hva-1; 4) COR47; 5) a mannitol 1-P-dehydrogenase gene; 6) a gene for biosynthesis of polyamines; 7) a gene for the biosynthesis of glycine betaine; 8) a gene for the biosynthesis of trehalose; 9) a gene for the biosynthesis of D-ononitol; 10) a gene for the biosynthesis of fructans; 11) a gene for regulating the expression of stress-responsive genes. The above are methods/plants incorporate DNA molecules that encode structurally and functionally distinct molecules which are involved in different biochemical pathways. Accordingly, the mechanisms by which drought/salt tolerance are increased also differ.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.


Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Benzion, Ph.D whose telephone number is (703) 308-1119.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

  
PAULA HUTZELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600